

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-194—sHB 6387

Judiciary Committee

AN ACT CONCERNING COURT OPERATIONS

SUMMARY: This act:

1. clarifies the courts' authority over civil unions performed in foreign jurisdictions (§§ 1 & 3);
2. extends the validity of an ex parte restraining order until the day a hearing is held if the court is closed on the date of a scheduled hearing on the order (§ 2);
3. creates a procedure for an emergency ex parte order of child custody in a dissolution of marriage case or later proceedings regarding custody (§ 4);
4. requires court clerks to send the original, rather than a certified copy, of certain paternity acknowledgements to the Department of Public Health (DPH) (§ 5);
5. requires a parent seeking to regain legal guardianship of a child in certain cases to do so by filing a motion instead of a petition (§ 6);
6. eliminates a voluntary alternative dispute resolution program for parties to civil actions involving ownership, maintenance, or use of a private car (§§ 7 & 15);
7. allows attorneys who hear small claims cases to sign documents by computer, fax, or other technology (§ 9);
8. specifies that court support enforcement officers and support services investigators can serve all process related to cases where the Department of Social Services is providing child support enforcement services (the law already allows them to serve motions for modification or contempt and wage withholdings in child support matters) (§ 12);
9. specifies how court clerks may record or copy certain documents and requires the person requesting the recording or copying to pay the associated fees regardless of the method the clerk uses (§§ 13-14);
10. establishes a \$350 fee payable to the court clerk for applications to dissolve certain liens and substitute a surety bond, but reduces the fee to \$300 on July 1, 2015 (§§ 13-14); and
11. makes technical changes.

EFFECTIVE DATE: October 1, 2013, except the provisions (1) on court clerks' methods of recording or copying and the \$350 fee for dissolution of lien applications are effective July 1, 2013 and (2) reducing the fee for dissolution of lien applications to \$300 are effective July 1, 2015.

§§ 1 & 3 — COURT ACTIONS REGARDING CIVIL UNIONS

The act clarifies that the courts' authority over family relations matters

includes the dissolution, legal separation, or annulment of civil unions performed in a foreign jurisdiction. It allows a single party to such a civil union to bring an action for dissolution, annulment, or legal separation in Connecticut, rather than requiring both parties to do so as under prior law.

The act applies to these proceedings regarding foreign civil unions:

1. statutory procedures and requirements for dissolution, annulment, or legal separation of a marriage (including pre- and post-judgment) and requirements for enforcing or modifying a foreign matrimonial judgment and
2. substantive statutes on dissolution, annulment, or legal separation of a marriage (including pre- and post-judgment).

§ 2 — EX PARTE RESTRAINING ORDERS AND COURT CLOSURES

By law, someone subjected to continuous threats of present physical pain or injury, stalking, or a pattern of threatening by a family or household member can apply to the court for a restraining order. The court can grant an ex parte order (without a hearing and notice to the subject of the order) if there is immediate and present physical danger to the applicant. The law requires a hearing within 14 days of the order.

If a hearing on the application or an ex parte order is scheduled for a day that the court is closed, the act requires the hearing to take place on the next day the court is open and extends the validity of an ex parte restraining order until the hearing.

§ 4 — EMERGENCY EX PARTE CHILD CUSTODY ORDER

The act allows a person seeking child custody in a dissolution, legal separation, or annulment of a marriage proceeding or a later proceeding regarding child custody to apply to the court for an emergency ex parte custody order when he or she believes there is an immediate and present risk of physical danger or psychological harm to the child. The application must include an affidavit under oath stating:

1. the conditions requiring the order;
2. that the order is in the child's best interests; and
3. how the applicant or others attempted to inform the respondent (the other parent) of the application, or why the court should consider the application if no such attempts were made.

The court must order a hearing on the application to take place within 14 days of issuing its order for a hearing. The court may issue an emergency ex parte order for the child's protection before or after the hearing if it finds an immediate and present risk of physical danger or psychological harm to the child. It may inform the Department of Children and Families of relevant information in the affidavit for investigation.

An emergency ex parte order may prohibit the respondent from:

1. removing the child from Connecticut,
2. interfering with the applicant's custody of the child,

3. interfering with the child's education, and
4. taking other specific actions if the court finds such a prohibition is in the child's best interests.

If a hearing is postponed at the request of either party, the court cannot issue or continue an ex parte order unless the (1) parties agree to it or (2) court orders it for good cause.

At least five days before the hearing, the applicant must serve the respondent with notice of the hearing, a copy of the application and affidavit, and any order issued.

§ 5 — PATERNITY ACKNOWLEDGEMENT COPIES

The law allows a father and mother in a case involving a petition for a neglected, uncared for, or abused child or youth to sign a paternity acknowledgement. Previously, the court clerk sent a certified copy of the acknowledgment to DPH for the paternity registry (which collects paternity acknowledgments or adjudications for child support enforcement purposes). The act instead requires the clerk to send the original acknowledgment. It requires the court to keep a copy, rather than a certified copy as previously required.

§ 6 — LEGAL GUARDIANSHIP MOTIONS

By law, the court can order a suitable and worthy person to be the legal guardian of a neglected, uncared for, or abused child. A parent or former legal guardian can request reinstatement of his or her legal guardianship of the child. The act requires the request to be in a motion before the court rather than a petition.

§§ 7 & 15 — ALTERNATIVE DISPUTE RESOLUTION FOR CERTAIN CASES

The act eliminates a voluntary alternative dispute resolution program for parties to a civil action based on ownership, maintenance, or use of a private car. The program set timeframes for the resolution process and the related court case, allowed parties to agree to refer the case to binding arbitration, and allowed the court to confirm an arbitration award.

The act also eliminates provisions making these cases privileged for trial under certain circumstances and giving the courts authority to adopt rules for their expedited processing.

§ 9 — SMALL CLAIMS CASES AND DOCUMENT SIGNING

The act allows attorneys approved by the chief court administrator to hear small claims cases to sign decisions, orders, and other documents by computer, fax, or other technology according to the chief court administrator's procedures. The law already allows judges, judge trial referees, family support magistrates, and small claims court magistrates to do so.

§§ 13-14 — METHOD OF RECORDING OR COPYING DOCUMENTS AND
FEE FOR DISSOLUTION OF LIEN ON SUBSTITUTION OF BOND

Method of Recording or Copying Certain Documents

The act allows court clerks to record or copy certain documents by photograph, microfilm, computerized image, or another process that accurately reproduces or forms a durable medium for reproducing the original. It requires the person requesting the recording or copying to pay the associated fees regardless of the method the clerk uses. These provisions apply to the following documents with the following fees: (1) recording the commission and oath of a notary public, \$10; (2) making copies, \$1 per page; (3) copying a judgment file, \$15 or \$25 if certified; and (4) copying a foreclosure judgment certificate, \$25.

Dissolution of Lien on Substitution of Bond

The act establishes a fee payable to the court clerk for applications to dissolve one of the following types of liens and substitute a bond with surety: mechanic's lien on real property, vessel lien, bailee for hire's lien on personal property (for example, a repair shop that takes possession of property in order to repair it has a lien for the amount of the work performed), purchaser's lien on real property (for the amount of the deposit under a contract to purchase property), or aircraft lien.

Under the act, the fee is \$350 beginning July 1, 2013 but is reduced to \$300 on July 1, 2015.

By law, an owner or person with interest in property subject to one of these liens can apply to court to have the lien released and a bond with sufficient surety substituted for it.

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